

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO. 645/2023 IN MCA ST. NO. 8016/2023
(REVIEW) IN FA NO. 1710/2019

Union of India Vs Vidya wd/o Dyaneshwar Wankhede and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms N.G. Chaubey, advocate for the appellant.

Mr R. Suryawanshi, advocate for the respondents

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26/04/2023.

1. This application for condonation of delay which is caused in filing the review application.
2. In view of the reasons mentioned in the application that initially the appellant has filed the application for speaking to minutes and therefore, review application was not filed within time.
3. Considering the reasons mentioned in the application, delay of 20 days is condoned.

Misc. Civil Application (Review) St. No. 8016/2023

1. The recent review application is filed under Section 114 of the Code of Civil Procedure under Order 47 for review of the judgment and order passed by this Court in First Appeal No. 1710/2019 by which this Court has granted the interest on the compensation amount.
2. As per the contention of the learned advocate Ms Chaubey that in view of that judgment of the Hon'ble

Apex Court in the case of ***Union of India Vs Radha Yadav*** observed that claimants are not entitled for interest as they would be entitled to receive the compensation which is highest amount. Thus, granting of interest is an error apparent and therefore, the judgment and order granting interest deserves to be reviewed.

3. The ground raised by the Railway is that the claimants are not entitled for the interest on the compensation amount but this Court has awarded the interest which is error apparent on the face of record and therefore, that extent of the judgment needs to be reviewed.

4. Heard Mr N.G. Chaubey, learned advocate for the railway. She reiterated the same contentions and placed reliance on ***Union of India Vs Rina Devi reported in 2018 (3) PAC 26*** and ***Union of India Vs Radha Yadav reported in (2019) 3 SCC 410*** and submitted that in view of the observations of the Hon'ble Apex Court, the claimants are entitled to receive the highest amount, if the alleged incident has occurred, prior to the revised notification.

5. Per contra, learned advocate Mr Roshan Suryawanshi for the respondents there is no dispute regarding the settled position of law interpreted by the Hon'ble Apex Court therefore, appropriate orders can be passed

6. Heard both the sides. Perused the application.

7. Admittedly while passing the judgment, this Court has awarded the compensation along with interest. The Hon'ble Apex Court has clarified the issue regarding the interest in the case of *Union of India V/s Rina Devi* referred (supra).

8. In the case of *Union of India Vs Radha Yadav* in para-11, the Hon'ble Apex Court has held that the issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in the case of *Rina Devi* is very clear. What this Court has laid down is that the amount of compensation payable on the date of accident with reasonable rate of interest shall first be calculated. If the amount so calculated is less than the amount prescribed as on the date of the award, the claimant would be entitled to higher of these two amounts. Therefore, if the liability had arisen before the amendment was brought in, the basic figure would be as per the Schedule as was in existence before the amendment and on such basic figure reasonable rate of interest would be calculated. If there be any difference between the amount so calculated and the amount prescribed in the Schedule as on the date of the award, the higher of two figures would be the measure of compensation.

9. Thus, in view of the observations of the Hon'ble Apex Court, the matter is crystal clear that now this issue does not lead any further clarification and collaboration. In view of this judgment, the claimants is only entitled to receive highest amount which is the compensation of

Rs. 8,00,000/- without any interest. Thus, the ground raised by the applicant/railway that there is error apparent is acceptable and judgment of this Court deserves to be reviewed by observing that the claimants are entitled to receive the compensation of Rs. 8,00,000/- without any interest.

10. In view of that para-26 of the judgment which shows that claimants are entitled to receive the interest @ Rs. 7.5% per annum is reviewed, to the extent that claimants are only entitle to receive the compensation of Rs. 8,00,000/.

11. In view of the above findings, I pass the following order:

- a) Operative portion of the judgment be corrected to the extent that the Railway Administration is directed to pay compensation of Rs. 8,00,000/- to the claimants within a period of 60 days from the date of receipt of copy of this judgment.
- b) The corrected judgment be uploaded, in view of the order passed in this Review Application.
- c) With this findings, civil application is disposed of.

JUDGE